

IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA

JAMES A. BARRY, JR.,

No. C 09-02641 SBA (PR)

Petitioner,

**ORDER DIRECTING RESPONDENT TO
SHOW CAUSE WHY THE AMENDED
PETITION SHOULD NOT BE GRANTED**

v.

JOHN F. SALAZAR, Warden,

Respondent.

Petitioner, a state prisoner, has filed this petition for a writ of habeas corpus pursuant to 28 U.S.C. § 2254. Petitioner has been granted leave to proceed in forma pauperis.

In an Order dated March 4, 2010, the Court directed Petitioner to "file an amended petition in which he completes the Court's habeas corpus petition form in its entirety and provides all of the information required therein." (Mar. 4, 2010 Order at 2.)

On April 5, 2010, Petitioner filed his amended petition. It does not appear from the face of the amended petition that it is without merit. Good cause appearing, the Court hereby issues the following orders:

1. Petitioner's application to proceed in forma pauperis is GRANTED.
2. The Clerk of the Court shall serve a copy of this Order and the amended petition and all attachments (docket no. 4) thereto upon Respondent and Respondent's attorney, the Attorney General of the State of California. The Clerk shall also serve a copy of this Order on Petitioner at his current address.

3. Respondent shall file with this Court and serve upon Petitioner, within **one-hundred and twenty (120) days** of the issuance of this Order, an Answer conforming in all respects to Rule 5 of the Rules Governing Section 2254 Cases, showing cause why a writ of habeas corpus should not be issued. Respondent shall file with the Answer a copy of all portions of the relevant state records that have been transcribed previously and that are relevant to a determination of the issues presented by the petition.

4. If Petitioner wishes to respond to the Answer, he shall do so by filing a Traverse with the Court and serving it on Respondent within **sixty (60) days** of his receipt of the Answer. Should Petitioner fail to do so, the petition will be deemed submitted and ready for decision **sixty (60) days** after the date Petitioner is served with Respondent's Answer.

5. Respondent may file with this Court and serve upon Petitioner, within **sixty (60) days** of the issuance of this Order, a motion to dismiss on procedural grounds in lieu of an Answer, as set forth in the Advisory Committee Notes to Rule 4 of the Rules Governing Section 2254 Cases. If Respondent files such a motion, Petitioner shall file with the Court and serve on Respondent an opposition or statement of non-opposition to the motion within **sixty (60) days** of receipt of the motion, and Respondent shall file with the Court and serve on Petitioner a reply within **fifteen (15) days** of receipt of any opposition.

6. It is Petitioner's responsibility to prosecute this case. Petitioner must keep the Court and Respondent informed of any change of address and must comply with the Court's orders in a timely fashion. Petitioner must also serve on Respondent's counsel all communications with the Court by mailing a true copy of the document to Respondent's counsel.

7. Extensions of time are not favored, though reasonable extensions will be granted. Any motion for an extension of time must be filed no later than **ten (10) days** prior to the deadline sought to be extended.

IT IS SO ORDERED.

DATED: 9/10/10


SAUNDRA BROWN ARMSTRONG
United States District Judge

1 UNITED STATES DISTRICT COURT
2 FOR THE
3 NORTHERN DISTRICT OF CALIFORNIA
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5

6 JAMES A BARRY JR,

Case Number: CV09-02641 SBA

7 Plaintiff,

CERTIFICATE OF SERVICE

8 v.

9 JOHN F SALAZAR et al,

10 Defendant.
11 _____/

12 I, the undersigned, hereby certify that I am an employee in the Office of the Clerk, U.S. District
13 Court, Northern District of California.

14 That on September 10, 2010, I SERVED a true and correct copy(ies) of the attached, by placing said
15 copy(ies) in a postage paid envelope addressed to the person(s) hereinafter listed, by depositing said
16 envelope in the U.S. Mail, or by placing said copy(ies) into an inter-office delivery receptacle
17 located in the Clerk's office.

18 James A. Barry F-55178
19 Chuckawalla Valley State Prison
P.O. Box 2349
Blythe, CA 92226

20 Dated: September 10, 2010

21 Richard W. Wieking, Clerk
By: LISA R CLARK, Deputy Clerk
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